

§ 232.890

(1) *Payment in cash.* Unless a written request for payment in debentures is filed with the application, payment shall be made in cash.

(2) *Optional payment in debentures.* Payment shall be made in debentures upon filing a written request with the application.

(b) *Amount of payment.* Upon an acceptable assignment of the note and security instrument, the Commissioner shall pay the claim of the lender in an amount equal to the unpaid principal balance of the loan as of the date of default determined as follows:

(1) By adding the following items:

(i) Any accrued interest due as of the date of execution of the assignment of the loan to the Commissioner.

(ii) Any advances approved by the Commissioner made previously by the lender under the provisions of the note or security instrument or instruments.

(iii) Reimbursement for such reasonable collection costs, court costs, and attorney's fees as may be approved by the Commissioner.

(iv) Any loan insurance premiums paid after default.

(v) If payment is made in cash, an amount equivalent to the debenture interest which would have been earned thereon, as of the date such cash payment is made, except when the lender fails to meet any one of the applicable requirements of §§ 232.850, 232.875, and 232.880, within the specified time and in a manner satisfactory to the Commissioner (or within such further time as the Commissioner may approve in writing), the interest allowance in such cash payment shall be computed only to the date on which the particular required action should have been taken or to which it was extended.

(2) By deducting from the total of the items computed under paragraph (b)(1) of this section the following items:

(i) Any amount received by the lender on account of the loan after the date of default.

(ii) Any net income received by the lender from the property covered by the note or security instrument and not applied to prior debts held by that lender.

(iii) The sum of the cash items retained by the lender pursuant to § 232.880(h)(1)(ii).

24 CFR Ch. II (4–1–00 Edition)

§ 232.890 Characteristics of debentures.

Debentures issued in settlement of insurance claims under this subpart shall have the same characteristics and the same requirements for registration and redemption as those issued pursuant to subpart B of this part except that debentures shall bear interest at the rate in effect as of the date the commitment was issued, or as of the date the loan was first endorsed for insurance, whichever rate is higher and shall mature 10 years from the date of issue which date shall be the date of execution of the assignment of the loan to the Commissioner.

§ 232.893 Cash adjustment.

Any difference of less than \$50 between the amount of debentures to be issued to the lender and the total amount of the lender's claim, as approved by the Commissioner, may be adjusted by the issuance of a check in payment thereof.

[59 FR 49816, Sept. 30, 1994]

ASSIGNMENTS

§ 232.895 Assignment of insured loans.

(a) An insured loan may be transferred only to a transferee who is a lender approved by the Commissioner. Upon such transfer and the assumption by the transferee of all obligations under the contract of insurance the transferor shall be released from its obligations under the contract of insurance.

(b) The contract of insurance shall terminate with respect to loans described in paragraph (a) of this section upon the happening of either of the following events:

(1) The transfer or pledge of the insured loan to any person, firm, or corporation, public or private, other than an approved lender.

(2) The disposal by a lender of any partial interest in the insured loan to other than an approved lender.

EXTENSION OF TIME

§ 232.897 Actions to be taken by lender.

With respect to any action required of the lender within a period of time

prescribed by this subpart, the Commissioner may extend such period.

Subpart E—Insurance of Mortgages Covering Existing Projects

SOURCE: 53 FR 33735, Aug. 31, 1988, unless otherwise noted.

§ 232.901 Mortgages covering existing projects are eligible for insurance.

A mortgage executed in connection with the purchase or refinancing of an existing project without substantial rehabilitation may be insured under this subpart pursuant to section 223(f) of the Act. A mortgage insured pursuant to this subpart shall meet all other requirements of this part except as expressly modified by this subpart.

[59 FR 61228, Nov. 29, 1994]

§ 232.902 Eligible project.

Existing projects (with such repairs and improvements as are determined by the Commissioner to be necessary) are eligible for insurance under this subpart. The project must not require substantial rehabilitation and three years must have elapsed from the date of completion of construction or substantial rehabilitation of the project, or from the beginning of occupancy, whichever is later, to the date of application for insurance. In addition, the project must have attained sustaining occupancy (occupancy that produces income sufficient to pay operating expenses, annual debt service and reserve fund for replacement requirements) as determined by the Commissioner, before endorsement of the project for insurance; alternatively, the mortgagor must provide an operating deficit fund at the time of endorsement for insurance, in an amount, and under an agreement, approved by the Commissioner.

[59 FR 61228, Nov. 29, 1994]

§ 232.903 Maximum mortgage limitations.

Notwithstanding the maximum mortgage limitations set forth in § 232.30, a mortgage within the limits set forth in this section shall be eligible for insurance under this subpart.

(a) *Value limit.* The mortgage shall involve a principal obligation of not in excess of eighty-five percent (85%) for a profit motivated mortgagor (ninety percent (90%) for a private nonprofit mortgagor) of the Commissioner's estimate of the value of the project, including major movable equipment to be used in its operation and any repairs and improvements. The Commissioner's estimate of value shall result from consideration of:

- (1) Estimated market value of the Project by capitalization,
- (2) Estimated market value of the Project by direct sales comparison, and
- (3) Total estimated replacement cost of the Project.

In the event the mortgage is secured by a leasehold estate rather than a fee simple estate, the value of the property described in the mortgage shall be the value of the leasehold estate (as determined by the Commissioner) which shall in all cases be less than the value of the property in fee simple.

(b) *Debt service limit.* The insured mortgage shall involve a principal obligation not in excess of the amount that could be amortized by eighty-five percent (85%) for a profit motivated mortgagor (ninety percent (90%) for a private nonprofit mortgagor) of the net projected project income available for payment of debt service. Net projected Project income available for debt service shall be determined by reducing the Commissioner's estimated gross income for the Project by a vacancy and collection loss factor and by the cost of all estimated operating expenses, including deposits to the reserve for replacements and taxes.

(c) *Project to be refinanced—additional limit.* In addition to meeting the requirements of paragraphs (a) and (b) of this section, if the Project is to be refinanced by the insured mortgage (*i.e.*, without a change of ownership or with the Project sold to a purchaser who has an identity of interest as defined by the Commissioner with the seller with the purchase to be financed with the insured mortgage), the maximum mortgage amount must not exceed the cost to refinance the existing indebtedness, which will consist of the following items, the eligibility and